

REMARKS

The final Office Action, which was sent on September 12, 2005, has been received and reviewed.

Claims 1-35 are currently pending and under consideration in the above-referenced application, each standing rejected.

Reconsideration of the above-referenced application is respectfully requested.

Information Disclosure Statements

Please note that Information Disclosure Statements were filed in the above-referenced application on April 24, 2001, June 21, 2001, September 23, 2002, and June 20, 2005, but that initialed copies of the Forms PTO-1449 and PTO/SB/08A that accompanied these Information Disclosure Statements have not been returned to the undersigned attorney, nor has the undersigned attorney been provided with any indication that the references listed on the Forms PTO-1449 and PTO/SB/08A have been considered or made of record in the above-referenced application.

It is respectfully requested that the references that have been cited in the Information Disclosure Statements dated April 24, 2001, June 21, 2001, September 23, 2002, and June 20, 2005, be considered and made of record in the above-referenced application and that initialed copies of the Forms PTO-1449 or PTO/SB/08A that accompanied these Information Disclosure Statements be were returned to the undersigned attorney as evidence of such consideration.

For the sake of convenience, second copies of the four (4) above-mentioned Information Disclosure Statements, their accompanying Forms PTO-1449 or PTO/SB/08A, and USPTO date-stamped postcards evidencing receipt of the same by the Office are enclosed with this communication.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 24-30 stand rejected under 35 U.S.C. § 112, second paragraph, for being drawn to subject matter that is purportedly indefinite. Specifically, it has been asserted that the structure

that has been recited with respect to the respiratory flow component of these claims, which is an element that is not positively set forth in the claims, is ambiguous.

The M.P.E.P. does not provide direct guidance on this issue. It does, however, provide guidance in a somewhat analogous situation—when functional language is used in apparatus claims. Specifically, M.P.E.P. § 2173.05(g) provides that such limitations “must be evaluated for what [they] reasonably convey[] to a person of ordinary skill in the art in the context in which [they are] used.” It is respectfully submitted that reference to another, unclaimed apparatus for the sake of providing context may similarly be made to convey to one of ordinary skill in the art the characteristics of certain features of a claim element. The standard that applies is: would one of ordinary skill in the art, in view of the description that has been provided, understand the scope of the subject matter recited in claims 24-30? M.P.E.P. § 2173.02.

By referring to corresponding features of an unclaimed respiratory flow component, the subject matter recited in claims 24-30 reasonably, and with clarity, conveys to one of ordinary skill in the art some idea as to scope of the elements recited in these claims. For example, in claim 24, reference to a “temperature control component” that is “configured to maintain [a] luminescable composition at a substantially constant temperature” merely indicates a defining function of the “temperature control component.” Claims 25-30 similarly define elements of the claimed transducer in terms of corresponding features on a respiratory flow component. Although the respiratory flow component is not itself claimed, reference thereto is not at all ambiguous, as it provides one of ordinary skill in the art with an understanding of the characteristics of the features of the claimed transducer.

Therefore, it is respectfully submitted that claims 24-30 comply with the definiteness requirement of the second paragraph of 35 U.S.C. § 112, and that the subject matter recited in each of these claims is in condition for allowance. Accordingly, withdrawal of the 35 U.S.C. § 112, second paragraph, rejections of claims 24-30 is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 1-35 stand rejected under 35 U.S.C. § 103(a).

The standard for establishing and maintaining a rejection under 35 U.S.C. § 103(a) is set forth in M.P.E.P. § 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Stanley in View of Knodle

Claims 1-10, 13-15, and 17-35 stand rejected under 35 U.S.C. § 103(a) for reciting subject matter which is assertedly unpatentable over the subject matter taught in U.S. Patent 3,725,658 to Stanley et al. (hereinafter "Stanley"), in view of teachings from U.S. Patent 4,914,720 to Knodle et al. (hereinafter "Knodle").

Stanley teaches side stream monitoring apparatus that employ luminescence quenching technology for detecting changes in oxygen present in diverted respiratory samples. Knodle teaches an infrared carbon dioxide cuvette a complementarily configured transducer that may be assembled with the cuvette and disassembled therefrom

It is respectfully submitted that there are at least two reasons that a *prima facie* case of obviousness has not been established against any of claims 1-10, 13-15, or 17-35.

First, one of ordinary skill in the art would not have had the hindsight that the specification and claims of the above-referenced application provide to one of ordinary skill in the art. Without such knowledge, one of ordinary skill in the art wouldn't have been motivated to combine the teachings of Stanley and Knodle in the manner that has been asserted.

In particular, one of ordinary skill in the art would not have been motivated to apply teachings that relate to features of a so-called "mainstream" gas sensor, which is configured to

reside upon a breathing tube that communicates with the airway of a subject (Knodle), with a conventional “side-stream” gas sensor (Stanley). Further, one of ordinary skill in the art wouldn’t have been motivated to apply teachings that relate to a relatively complex, two-piece sensor of the type required for mainstream gas sensing (Knodle) to a much simpler, self-contained, single-piece side-stream sensor (Stanley).

Furthermore, one of ordinary skill in the art wouldn’t have been motivated to combine teachings from a luminescence quenching apparatus of the type taught in Stanley with teachings that pertain to an infrared sensing device, such as that taught in Knodle. Specifically, a luminescence quenching apparatus includes a sample container, such as the sample tube of Stanley, that is coated with a luminescent material, which one of ordinary skill in the art would expect to disrupt transmission radiation through the tube. In contrast, an infrared sensing device, such as that taught in Knodle, requires an unobstructed optical path through a sample cuvette.

Second, one of ordinary skill in the art would have had no reason to expect that the purported combination of Stanley and Knodle would have been successful, particularly when the teachings of these references are considered in their entireties, as required by M.P.E.P.

§ 2141.02. For example, the luminescent material-coated tube, sensor, and detector of Stanley are part of an integral unit; thus, there would be no reason to couple the transducer of Knodle to the apparatus of Stanley. Even assuming, for the sake of argument, that the transducer of Knodle could be coupled to the apparatus of Stanley, the wavelengths that are generated and detected by the source and detector of Knodle’s transducer would not excite or detect fluorescence from the luminescent material within the apparatus that is taught in Stanley. Moreover, the presence of the luminescent material on the surfaces of the tube would likely interfere with the infrared transmission that is required to obtain respiratory carbon dioxide measurements in accordance with the teachings of Knodle. Therefore, one of ordinary skill in the art would not have any reason to expect that features from the mainstream infrared sensor taught in Knodle could be incorporated into the sidestream luminescence quenching sensor taught in Stanley.

Third, both Stanley and Knodle lack any teaching or suggestion of each and every element of several claims of the above-referenced application.

Neither Stanley nor Knodle teaches or suggests a transducer with a detector that is configured to communicate with a processor configured to increase a signal-to-noise ratio of a signal indicative of an intensity of at least one wavelength of electromagnetic radiation emitted by a luminescable composition, as required by claim 3. The teachings of Stanley regarding signal-to-noise ratios are limited to the recognition that a high ratio is desirable.

Stanley and Knodle also lack any teaching or suggestion of a transducer that includes a detector that is configured to communicate with a processor that operates under different processing protocols depending upon the monitored oxygen concentration, as recited in claim 5.

Claims 6 and 7 are directed to allowable subject matter since Stanley and Knodle both lack any teaching or suggestion of a transducer with a detector that comprises a photodiode or a transducer that comprises a PIN silicon photodiode, respectively.

With respect to the subject matter recited in claim 17, neither Stanley nor Knodle teaches or suggests a transducer with a second radiation source that emits at least a calibration wavelength of electromagnetic radiation. The teachings of Stanley are instead limited to calibration of a sensor with gas mixtures including known concentrations of oxygen.

Claim 18, which depends from claim 17, is also allowable since neither Stanley nor Knodle includes any teaching or suggestion of a transducer with a second radiation source that emits calibration radiation that will not cause a luminescable material of a sensor that configured for assembly with the transducer to luminesce.

With respect to the subject matter recited in claims 25-30, even assuming, *arguendo*, that Stanley suggests the desirability of including a temperature control component in a transducer, neither Stanley nor Knodle teaches or suggests a transducer with a heater component that is configured to contact a thermal capacitor upon assembly of the transducer with a respiratory flow component, as recited in claim 25; a transducer with a temperature control component exposed therethrough, as recited in claim 26; a transducer with a heater component that is configured to be biased against a thermal capacitor of a respiratory flow component, as recited in claim 27; a transducer with a heater component that includes a thick film heater, as recited in claim 28; or a transducer with a temperature sensor that senses a temperature of a heater component, a capacitor, or a luminescable composition, as recited in claim 30.

It is, therefore, respectfully submitted that a *prima facie* case of obviousness has not been established against any of claims 1-10, 13-15, and 17-35. Therefore, under 35 U.S.C. § 103(a), the subject matter recited in each of claims 1-10, 13-15, and 17-35 is allowable over the subject matter taught in Stanley and Knodle.

Stanley, Knodle, and Yafuso

Claims 11 and 12 are rejected under 35 U.S.C. § 103(a) for being drawn to subject matter that is allegedly unpatentable over the teachings of Stanley, in view of teachings from Knodle and, further, in view of the subject matter taught in U.S. Patent 4,849,172 to Yafuso et al. (hereinafter “Yafuso”).

Yafuso does not remedy the aforementioned deficiencies of Stanley and Knodle. Therefore, claims 11 and 12 are both allowable, among other reasons, for respectively depending directly and indirectly from claim 1, which is allowable.

Stanley, Knodle, and Hauenstein

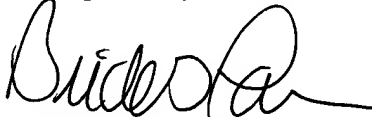
Claim 16 has been rejected under 35 U.S.C. § 103(a) for being drawn to subject matter which is assertedly unpatentable over that taught in Stanley, in view of teachings from Knodle and, further, in view of the teachings of U.S. Patent 4,861,727 to Hauenstein et al. (hereinafter “Hauenstein”).

Hauenstein does not remedy the aforementioned deficiencies of Stanley and Knodle. Therefore, claim 16 is allowable, among other reasons, for depending directly from claim 1, which is allowable.

CONCLUSION

It is respectfully submitted that each of claims 1-35 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brick G. Power', written in a cursive style.

Brick G. Power
Registration No. 38,581
Attorney for Applicants
TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: December 12, 2005

BGP/dlm:eg
Document in ProLaw



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lawrence L. Labuda et al.

Serial No.: Not Yet Assigned

Filed: April 24, 2001

For: OXYGEN MONITORING
APPARATUS

Examiner: Unknown

Group Art Unit: Unknown

Attorney Docket No.: 4785.2US

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EL 740533041 US

Date of Deposit with USPS: April 24, 2001

Person making Deposit: Daniel Thatcher

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

The present application is a divisional of application Serial No. 09/128,918, filed August 4, 1998, pending.

Pursuant to M.P.E.P. 2001.06(b), the Examiner is respectfully requested to consider the information of record in the prior application, and to confirm in the first Office Action on the merits that such art has in fact been reviewed. A PTO-1449 form listing all of the information of record in the prior application is enclosed herewith.

Attorney Docket: 4785.2US

This Information Disclosure Statement is filed within three (3) months of the filing date of the above-identified application, and no certification pursuant to 37 C.F.R. § 1.97(c) or a fee pursuant to 37 C.F.R. 1.17(p) is required.

Respectfully submitted,



Brick G. Power

Registration No. 38,581

Attorney for Applicants

TRASK BRITT

P. O. Box 2550

Salt Lake City, Utah 84110-2550

Telephone: (801) 532-1922

Date: April 24, 2001

BGP/ps:blh

Enclosure: Form PTO-1449

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Form PTO-1449 INFORMATION DISCLOSURE CITATION IN AN APPLICATION <i>(Use several sheets if necessary)</i>	Docket Number (Optional) 4785.2US	Application Number Not Yet Assigned
	Applicant Labuda et al.	
	Filing Date April 24, 2001	Group Art Unit Unknown

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	2,950,237	08/1960	Sharp et al.			
	3,429,667	02/1969	Hart et al.			
	3,612,866	10/1971	Stevens			
	3,725,658	04/1973	Stanley et al.			
	3,734,691	05/1973	Kukla et al.			
	3,734,862	05/1973	Maulding			
	3,830,222	08/1974	Chance			
	4,003,707	01/1977	Lübbbers et al.			
	4,223,226	09/1980	Quick et al.			
	4,245,507	01/1981	Samulski			
	4,272,485	06/1981	Lübbbers			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 809; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.

Form PTO-1449 INFORMATION DISCLOSURE CITATION IN AN APPLICATION <i>(Use several sheets if necessary)</i>	Docket Number (Optional) 4785.2US	Application Number Not Yet Assigned
	Applicant Labuda et al.	
	Filing Date April 24, 2001	Group Art Unit Unknown

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	4,321,057	03/1982	Buckles			
	4,399,099	08/1983	Buckles			
	4,437,772	03/1984	Samulski			
	4,476,870	10/1984	Peterson et al.			
	RE 31,832	02/1985	Samulski			
	RE 31,879	05/1985	Lübbes et al.			
	4,542,987	09/1985	Hirschfeld			
	4,568,518	02/1986	Wolfbeis et al.			
	4,587,101	05/1986	Marsoner et al.			
	4,608,344	08/1986	Carter et al.			
	4,652,143	05/1987	Wickersheim et al.			

FOREIGN PATENT DOCUMENTS

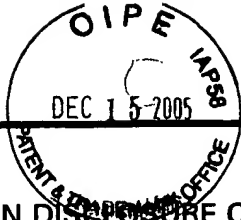
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



Form PTO-1449

INFORMATION DISCLOSURE CITATION
IN AN APPLICATION

(Use several sheets if necessary)

Docket Number (Optional)
4785.2USApplication Number
Not Yet AssignedApplicant **Labuda et al.**Filing Date **April 24, 2001**Group Art Unit **Unknown**

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	4,657,736	04/1987	Marsoner et al.			
	4,682,895	07/1987	Costello			
	4,730,112	03/1988	Wong			
	4,750,837	06/1988	Gifford et al.			
	4,752,115	06/1988	Murray, Jr. et al.			
	4,775,514	10/1988	Barnikol et al.			
	4,810,655	03/1989	Khalil et al.			
	4,822,899	04/1989	Groves et al.			
	4,849,172	07/1989	Yafuso et al.			
	4,861,727	08/1989	Hauenstein et al.			
	RE 33,064	09/1989	Carter et al.			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

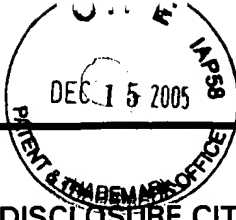
OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

DATE CONSIDERED

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Form PTO-1449

**INFORMATION DISCLOSURE CITATION
IN AN APPLICATION**

(Use several sheets if necessary)

Docket Number (Optional)
4785.2USApplication Number
Not Yet AssignedApplicant **Labuda et al.**Filing Date **April 24, 2001**Group Art Unit **Unknown****U.S. PATENT DOCUMENTS**

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	4,892,383	01/1990	Klainer et al.			
	4,892,941	01/1990	Dolphin et al.			
	4,895,156	01/1990	Schulze			
	4,919,891	04/1990	Yafuso et al.			
	4,954,318	09/1990	Yafuso et al.			
	4,968,632	11/1990	Brauer et al.			
	4,973,718	11/1990	Buchler et al.			
	5,012,809	05/1991	Shulze			
	5,030,420	07/1991	Bacon et al.			
	5,034,189	07/1991	Cox et al.			
	5,043,286	08/1991	Khalil et al.			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

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DATE CONSIDERED

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Form PTO-1449

INFORMATION DISCLOSURE CITATION IN AN APPLICATION

(Use several sheets if necessary)

Docket Number (Optional)
4785.2USApplication Number
Not Yet AssignedApplicant **Labuda et al.**Filing Date **April 24, 2001**Group Art Unit **Unknown**

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,194,391	03/1993	Nauze et al.			
	5,233,194	08/1993	Mauze et al.			
	5,234,835	08/1993	Nestor et al.			
	5,242,835	09/1993	Jensen			
	5,244,810	09/1993	Gottlieb			
	5,252,494	10/1993	Walt			
	5,262,192	11/1993	Nelson et al.			
	5,285,783	02/1994	Secker			
	5,285,784	02/1994	Seeker			
	5,308,581	05/1994	Lippitsch et al.			
	5,308,771	05/1994	Zhou et al.			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO
	2 132 348	07/1984	Great Britain				X
	2 538 550	06/1984	France				X
	WO 00/13003	03/2000	PCT			X	
	WO 01/08554 A1	02/2001	PCT			X	

OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

		Bacon, J. R., Demas, J. N.; "Determination of Oxygen Concentrations by Luminescence Quenching of a Polymer-Immobilized Transition-Metal Complex;" pgs. 2780-2785, <u>Analytical Chemistry</u> , Vol. 59, No. 23, December 1, 1987.
		Gewehr, P. M., Delpy, D. T.; "Optical oxygen sensor based on phosphorescence lifetime quenching and employing a polymer immobilised metalloporphyrin probe, Part 1 Theory and instrumentation;" pgs. 1-10, <u>Medical & Biological Engineering & Computing</u> , January 1993.
		Gewehr, P. M., Delpy, D. T.; "Optical oxygen sensor based on phosphorescence lifetime quenching and employing a polymer immobilised metalloporphyrin probe, Part 2 Sensor membranes and results;" pgs. 11-21, <u>Medical & Biological Engineering & Computing</u> , January 1993.

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	Applicant Labuda et al.	
	Filing Date April 24, 2001	Group Art Unit Unknown

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,326,585	07/1994	Nelson et al.			
	5,344,810	09/1994	Hirata et al.			
	5,511,547	04/1996	Markle et al.			
	5,517,313	05/1996	Colvin, Jr.			
	5,670,097	09/1997	Duan et al.			
	5,718,842	02/1998	Papkovsky et al.			
	5,804,048	09/1998	Wong et al.			
	5,830,138	11/1998	Wilson			
	5,910,661	06/1999	Colvin, Jr.			
	5,997,818	12/1999	Hacker et al.			
	6,015,715	01/2000	Kirschner et al.			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

		Kolle, C., O'Leary, P.; "Optical Oxygen Sensor for Breath-Gas Analysis;" <u>Report Institute for Chemical and Optical Sensors</u> ; Report No: COS 95.001, February 1995.
		H. S. Voraberger et al.; "Novel oxygen optrode withstanding autoclavation: technical solutions and performance; pgs. 1-7, <u>Sensors and Actuator B 3679</u> , 2000.

EXAMINER	DATE CONSIDERED
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Lawrence L. Labuda et al.

Serial No.: 09/841,363

Filed: April 24, 2001

For: OXYGEN MONITORING APPARATUS

Examiner: Unknown


Group Art Unit: 1743

Attorney Docket No.: 4785.2US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail (under 37 C.F.R. § 1.8(a)) on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

June 18, 2001
Date of Deposit


Signature of registered practitioner or other person having reasonable basis to expect mailing to occur on date of deposit shown pursuant to 37 C.F.R. § 1.8(a)(1)(ii)

Deidra J. Pfeil
Typed/printed name of person whose signature is contained above

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In compliance with the duty to disclose information material to patentability pursuant to 37 C.F.R. § 1.56, it is respectfully requested that this Supplemental Information Disclosure Statement be entered and the documents listed on attached Form PTO-1449 be considered by the Examiner and made of record. Copies of the listed documents are enclosed pursuant to 37 C.F.R. § 1.98(a). The listed documents were cited by the Office in co-pending application Serial No. 09/128,918, filed on August 4, 1998, and directed to a related invention.

In accordance with 37 C.F.R. § 1.97(g) and (h), filing of this Supplemental Information Disclosure Statement is not to be construed as a representation that a search has been made or an admission that the information cited herein is, or is considered to be, material to patentability as

defined in 37 C.F.R. § 1.56(b). Further, no representation is made by Applicants herein that no other possible material information as defined in 37 C.F.R. § 1.56 (b) exists.

DOCUMENTS

U.S. Patent Documents

<u>U.S. Patent No.</u>	<u>Issue Date</u>	<u>Inventor</u>
4,914,720	04/1990	Knodle et al.
5,445,160	08/1995	Culver et al.
5,789,660	08/1998	Kofoed et al.
5,931,161	08/1999	Keilbach et al.
6,095,986	08/2000	Braig et al.
6,190,327	02/2001	Isaacson et al.

Applicants offer to supply any explanation or discussion of the documents which the Examiner feels is necessary or desirable and which is requested.

This Supplemental Information Disclosure Statement is filed within three (3) months of the filing date of the above-identified application, and therefore no fee is due.

Respectfully submitted,



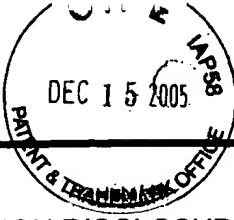
Brick G. Power
Registration No. 38,581
Attorney for Applicants
TRASKBRITT, PC
P. O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: (801) 532-1922

Date: June 18, 2001

BGP/ps:djp

Enclosures: Form PTO-1449

Copy of documents cited



Form PTO-1449

**INFORMATION DISCLOSURE CITATION
IN AN APPLICATION**

(Use several sheets if necessary)

Docket Number (Optional)
4785.2USApplication Number
09/841,363Applicant **Lawrence L. Labuda et al.**Filing Date **April 24, 2001**Group Art Unit **1743****U.S. PATENT DOCUMENTS**

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	4,914,720	04/1990	Knodle et al.			
	5,445,160	08/1995	Culver et al.			
	5,789,660	08/1998	Kofoed et al.			
	5,931,161	08/1999	Keilbach et al.			
	6,095,986	08/2000	Braig et al.			
	6,190,327	02/2001	Isaacson et al.			

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

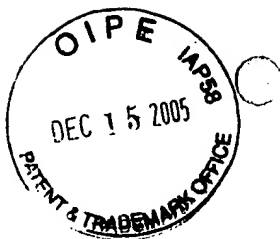
OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Labuda et al.

Serial No.: 09/841,363

Filed: April 24, 2001

For: OXYGEN MONITORING
APPARATUS

Confirmation No.: 6854

Examiner: J. Snay

Group Art Unit: 1743

Attorney Docket No.: 2181-4785.2US
(98-55 D2)

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

June 17, 2005
Date


Signature

Erika Gandre
Name (Type/Print)

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In compliance with the duty to disclose information material to patentability pursuant to 37 C.F.R. § 1.56, it is respectfully requested that this Supplemental Information Disclosure Statement be entered and the documents listed on attached Form PTO-1449 or PTO/SB/08 be considered by the Examiner and made of record. Copies of the listed documents are enclosed pursuant to 37 C.F.R. § 1.98(a).

In accordance with 37 C.F.R. § 1.97(g) and (h), filing of this Supplemental Information Disclosure Statement is not to be construed as a representation that a search has been made or an admission that the information cited herein is, or is considered to be, material to patentability as

defined in 37 C.F.R. § 1.56(b). Further, no representation is made by Applicants herein that no other possible material information as defined in 37 C.F.R. § 1.56 (b) exists.

U.S. Patent Documents

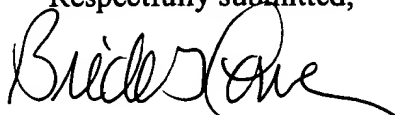
<u>U.S. Patent No.</u>	<u>Publication Date</u>	<u>Patentee</u>
US - 4,633,705	01/06/1987	Merilainen et al.
US - 4,784,486	11/15/1988	Van Wagenen et al.
US - 5,347,843	09/20/1994	Orr et al.
US - 5,379,650	01/10/1995	Kofoed et al.
US - 5,570,697	11/05/1996	Walker et al.
US - 5,625,189	04/29/1997	McCaul et al.

Applicants offer to supply any explanation or discussion of the documents which the Examiner feels is necessary or desirable and which is requested.

This Supplemental Information Disclosure Statement is filed after the mailing date of the first Office Action on the merits.

The fee pursuant to 37 C.F.R. § 1.17(p) is enclosed.

Respectfully submitted,



Brick G. Power
Registration No. 38,581
Attorney for Applicants
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: June 17, 2005

BGP/dlm:eg

Enclosures: Form PTO-1449 or PTO/SB/08

Copy of documents cited

Check No.7969 in the amount of \$180.00

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PTO/SB/08A (10-01)

PATENT & TRADEMARK OFFICE MAILROOM D
STAMPED HEREON IS AN ACKNOWLEDGEMENT THAT ON THIS
DATE THE PATENT & TRADEMARK OFFICE RECEIVED:

Utility Patent Application Transmittal (1 page); Fee Transmittal for FY
2001 (1 page, in duplicate); Check No. 16312 in the amount of \$490.00;
Specification, including cover page, claims and single-page abstract (50
pages); Formal Drawings (16 sheets; 27 figures); Copy of Power of
Attorney; Revocation of Prior Power of Attorney, and Request for Change
Correspondence Address, with attached Assignment (7 pages); Information
Disclosure Statement (2 pages); and Form PTO-1449 (7 pages)

Invention: OXYGEN MONITORING APPARATUS

Applicant(s): Lawrence L. Labuda et al.

Filing Date: April 24, 2001

Serial No.: Not Yet Assigned

Date Sent: April 24, 2001 via Express Mail,

Label No: EL 740533041 US

Client/Matter Docket No.: 2181/4785.2US

BGP/ps:blh



THE PATENT & TRADEMARK OFFICE MAILROOM DATE STAMPED
HEREON IS AN ACKNOWLEDGEMENT THAT ON THIS DATE THE
PATENT & TRADEMARK OFFICE RECEIVED:

Supplemental Information Disclosure Statement (2 pages); and Form PTO-1449
(1 page), with copy of cited references (6 documents)

Invention: OXYGEN MONITORING APPARATUS

Applicant(s): Lawrence L. Labuda et al.

Filing Date: April 24, 2001

Serial No.: 09/841,363

Date Sent: June 18, 2001 via First-Class Mail

Client/Matter Docket No.: 2181/4785.2US

BGP/ps:djp

